

EMPLOYMENT UPDATE

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Challenge to Fast Food Wage Board's \$15/Hour Recommendation

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Earlier this year, Governor Andrew Cuomo created the Fast Food Wage Board, a special panel within the New York State Department of Labor (DOL). In September 2015, the DOL accepted the Fast Food Wage Board's recommendation to gradually increase the minimum wage for fast food workers to \$15 per hour in New York City by 2018 and throughout New York State by 2021.

Last week, the National Restaurant Association (NRA) filed a challenge with the Industrial Board of Appeals to throw out the DOL's order implementing the fast food industry's minimum wage increase. The NRA based its complaint on Governor Cuomo's use of executive power to bypass the state legislature in deciding this matter.

The DOL's order targets a very specific sub-set of fast food restaurants meeting certain criteria, defining a "fast food establishment" including, but not limited to, a limited service establishment, which is part of a chain or franchise, with 30 or more establishments, nationally. Under this definition, the order appears to target large franchises such as Burger King and McDonald's.

Although these franchises appear nationally profitable, several of these individually-owned franchises are struggling financially. Short of closing these individual outlets completely, raising the minimum wage may have unintended consequences, such as hiring freezes, reduction in service levels, increasing prices to consumers, or lowering food quality. As evidence of an immediate response, some franchises have begun experimenting with automated ordering kiosks, which may eventually replace the employees running the registers and taking orders.

If you have any questions or concerns regarding employment law related questions, please contact Greg Reilly at (212) 916-0920 or gregory.reilly@mcblaw.com or Adam Guttell at (212) 916-0938 or adam.guttell@mcblaw.com. For more information on MCB's Employment and Labor Practice Group and its services, please visit www.mcblaw.com.

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